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KEIL & WEINKAUF
1350 Connecticut Ave., N.W.
Washington, D.C. 20036

In re Application of
REINDL, Andrea et al
Application No.: 09/762,045
PCT No.: PCT/EP99/05467
Int. Filing Date: 30 July 1999
Priority Date: 05 August 1998
Attorney Docket No.: 817/000006
For: DNA SEQUENCE CODING FOR A 1-
DEOXY-D-XYLULOSE-5-PHOSPHATE
SYNTHASE AND OVERPRODUCTION
THEREFOR IN PLANTS

COMMUNICATION

This communication is in response to applicants' "Response to Notification of Defective Response" filed on 29 October 2002.

BACKGROUND

On 01 February 2001, applicants filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 which was accompanied by, *inter alia*, an English translation of the application and amended claims. However, applicants failed to provide an English translation of the original claims.

On 27 April 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905), a Notification to Comply With Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/920) and a Notification of Defective Translation (Form PCT/DO/EO/913) indicating that a copy of a sequence listing in a computer readable form and a translation of the original claims and the sequence listing were required. A two-month time period for response was set with extensions of time available under 37 CFR 1.136(a).

On 29 June 2001, applicants filed a translation of the amended claims and a sequence listing.

On 08 August 2001, a Notification of a Defective Response (Form PCT/DO/EO/916) and Notification of Defective Translation (Form PCT/DO/EO/913) was mailed indicating that a translation of the original claims and processing fee under 37 CFR 1.492(f) was required.

On 17 September 2001, applicants filed a "Response to Erroneous Notification of Defective response" which was accompanied by, *inter alia*, a translation of the original claims and authorization to charge any shortage in fees to be paid to Deposit Account No. 11-0435.

On 18 October 2002, a Notification of a Defective Response (Form PCT/DO/EO/916) was mailed informing applicants that a processing fee of \$130.00, a substitute diskette of the "Sequence Listing," and additional claim fees of \$162.00 for 11 total claims over 20 and \$270.00 for a multiple dependent claim surcharge was required.

On 29 October 2002, applicants filed a corrected diskette of the sequence listing.

DISCUSSION

A review of the above-captioned application reveals that a translation of the original claims was not submitted until 29 June 2001. Therefore, a processing fee of \$130.00 pursuant to 37 CFR 1.492(f) is required. This fee will be charged to Deposit Account No. 11-0435 as authorized.

In addition, the Notification of a Defective Response (Form PCT/DO/EO/916) mailed 18 October 2002 erroneously indicated that additional claim fees of \$162.00 for a multiple dependent claim surcharge of \$270.00 were required. That is incorrect. No additional claim fees are due.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 30 July 1999 19 October 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 17 September 2001.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.



James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457